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Opening Statement
Energy and Commerce Subcommittee on Health
Hearing on "Examining the Current State of Cosmetics"
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Cosmetics are regulated by FDA under the Federal Food, Drug, and Cosmetic Act (FFDCA) of 1938.

The FFDCA forbids the introduction of adulterated or misbranded cosmetics into interstate commerce and provides for seizure, criminal penalties, and other enforcement authorities for violations of the Act.

The Fair Packaging and Labeling Act (FPLA) also requires cosmetics to carry an ingredient declaration to help consumers make informed purchasing decisions.

Unlike other products regulated by FDA, however, such as drugs, medical devices, and biologics, most cosmetic products and ingredients are not subject to FDA premarket approval. Instead, cosmetic manufacturers are largely responsible for substantiating the safety of their products and ingredients before they go to market.

Currently, cosmetic facilities can register with FDA on a voluntary basis, but FDA cannot compel them to do so. While FDA has the authority under FFDCA to enter and inspect cosmetic manufacturing facilities, the industry does not pay user fees for this purpose.

According to a June 2010 study by PriceWaterhouseCoopers, the personal care or cosmetics industry is responsible for 2.8 million jobs in the United States, and small businesses create the vast majority of these positions.

For the past several years, the industry and members of both parties have been reviewing FDA's regulatory authority over these products. One issue under review is the need for a national uniform standard for cosmetic products and preemption of state legislation.

I want to welcome each of our witnesses today, and I hope you can share your perspectives on several matters, including: what deficiencies, if any, you currently see in FDA's regulatory authority over cosmetics; what new authorities, if any, do you believe FDA needs in this area; and if new authorities are needed, what will be the impact on small businesses across the country?